

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4094-01  
Bill No.: HB 1264  
Subject: Motor Vehicles; Liability; Civil Procedure  
Type: Original  
Date: February 1, 2018

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Bill Summary: This proposal provides that failure to wear a safety belt or misuse of a safety belt may be considered evidence of comparative negligence or may be admitted to mitigate damages.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
State Road Fund	Up to \$350,000	Up to \$350,000	Up to \$350,000
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Up to \$350,000</b>	<b>Up to \$350,000</b>	<b>Up to \$350,000</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials at the **Missouri Department of Transportation** assume this proposal would have a potential unknown positive impact on the Department. The law currently allows for a 1% reduction in damages when the injured person is not wearing a seat belt and is injured. The change of up to a 25% reduction in damages for comparative negligence deriving from failure to wear a seat belt could result in a reduction in damages paid out to those suing the Highways and Transportation Commission.

**Oversight** inquired the Missouri Department of Transportation about how many lawsuits were filed and the amount of pay outs per fiscal year relating to tort claims in which a plaintiff did not wear a seatbelt. The following is a chart from the Missouri Department of Transportation regarding this information:

**Lawsuit History for Plaintiffs That Did Not Wear a Seatbelt (Five Fiscal Years)  
 Fiscal Years 2013 – 2017**

<b>FY Case Was Closed</b>	<b>Cases Where Seatbelts Were Used</b>	<b>Number / Percent of Cases Where Seatbelts Were Not Used</b>	<b>Other Types of Cases Where Seatbelt Use Not an Issue</b>	<b>Amount Paid Out (for cases where seatbelts were not used)</b>
<b>2013</b>	16	11 of 27 / 41%	14	\$2,168,989
<b>2014</b>	25	10 of 35 / 29%	9	\$1,451,601
<b>2015</b>	30	7 of 37 / 19%	12	\$562,845
<b>2016</b>	19	15 of 34 / 44%	9	\$2,515,000**
<b>2017</b>	26	5 of 31 / 16%	11	\$485,000

\*\* **\$1,460,000** was paid by the Missouri Highway and Transportation Commission’s prime contractor’s insurance company.

ASSUMPTION (continued)

**Oversight** assumes based on the table above, the average payout over the 5 year period was \$1,436,687  $((\$2,168,989 + \$1,451,601 + \$562,845 + \$2,515,000 + \$485,000) / 5)$  per year. This proposal would allow up to a 25% reduction in the total award that could be deducted. Using the average payout amount, this could be up to \$359,172 a year. Therefore, Oversight will show a cost avoidance of up to \$350,000 each year as a removal of liability from this proposal.

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

Officials at the **Office of the State Courts Administrator** assume this proposal may have some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Department of Revenue**, the **Department of Public Safety's Missouri Highway Patrol**, the **Office of Prosecution Services** and the **Office of the State Public Defender** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>STATE ROAD FUND</b>			
<u>Cost Avoidance - MODOT - removal of liability</u>	<u>Up to \$350,000</u>	<u>Up to \$350,000</u>	<u>Up to \$350,000</u>
<b>ESTIMATED NET EFFECT ON THE STATE ROAD FUND</b>	<b><u>Up to \$350,000</u></b>	<b><u>Up to \$350,000</u></b>	<b><u>Up to \$350,000</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION


This bill modifies the definition of a "passenger car" from a motor vehicle designed to carry 10 persons or less to a motor vehicle designed to carry 15 person or less. Currently, in an action to recover damages related to the operation of a motor vehicle, the failure to wear a safety belt may be considered as evidence of comparative negligence after the introduction of expert evidence on causation with a maximum 1% reduction in damages. The provisions of this bill remove the statutory requirement of expert evidence and increase the reduction in the amount of the plaintiff's recovery to an amount up to 25% of the damages awarded.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Missouri Department of Transportation  
Office of the Attorney General  
Office of the State Courts Administrator  
Department of Revenue  
Department of Public Safety  
    Missouri Highway Patrol  
Office of Prosecution Services  
Office of the State Public Defender

Ross Strope



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